S.B.CIVIL WRIT PETITION NO.6512/2007

Ramesh Lodha
v.
Labhsubh Lal Choradia & Ors.

Date of Order :: 8th October, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Suresh Shrimali, for the petitioner.

....

By judgment dated 17.4.2007 the Rent Tribunal, Rajsamand while accepting an application preferred by the respondent landlord held that landlord Shri Labhsubh Lal Choradia and his wife being suffering from cardiac ailment were having bonafide necessity of the premises in question. The petitioner tenant being aggrieved by the same preferred an appeal before learned Rent Appellate Tribunal, Udaipur wherein he also preferred an application under Order 6 Rule 17 read with Section 151 CPC seeking amendment in written statement. The amendment was sought to plead that after death of wife of the landlord no bonafide necessity exists. Learned Rent Appellate Tribunal by the order impugned dated 29.8.2007 rejected the application aforesaid by holding that the application by the Rent Tribunal was accepted on basis of bonafide necessity relating to ailment of the landlord himself and his wife, therefore, as a consequent to death of wife the issue relating to bonafide necessity does not change.

While assailing validity, propriety and correctness of the order aforesaid dated 29.8.2007 the contention of counsel for the petitioner is that the court below materially erred while rejecting the application for amendment as a subsequent fact that is very much relevant to the controversy should have been allowed to be pleaded.

I do not find any substance in the contention so raised. From perusal of the judgment dated 17.4.2007 passed by the Rent Tribunal it is apparent that bonafide necessity of the landlord was examined on basis of his own cardiac ailment as well as the ailment of his wife. In view of it the death of wife of the landlord in any manner does not effect the issue relating to bonafide necessity. No case, therefore, is made out for interference under Article 227 of the Constitution of India.

Accordingly, this petition for writ is dismissed.

(GOVIND MATHUR),J.

Kkm/ps.